

BOARD OF APPEALS
for
MONTGOMERY COUNTY

Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850
(240) 777-6600

Case No. A-5766

PETITION OF WILLIAM R. AND JOYCE COCHRAN

(Hearing held June 12, 2002)

OPINION OF THE BOARD

(Effective date of Opinion, July 12, 2002)

This proceeding is a petition pursuant to Section 59-A-4.11(b) of the Zoning Ordinance (Chap. 59, Mont. Co. Code 1994, as amended) for a variance from Section 59-C-1.323(b)(2). The petitioners propose to construct a one-story addition (sunroom) that requires an eight (8) foot variance as it is within seventeen (17) feet of the rear lot line. The required setback is twenty-five (25) feet.

The subject property is Lot 57, Block G, Mill Creek Subdivision, located at 7610 Tarpley Drive, Derwood, Maryland, in the R-90 Zone (Tax Account No. 01957615).

Decision of the Board: Requested variance **denied.**

EVIDENCE PRESENTED TO THE BOARD

1. The petitioner proposes to construct a 16 x 32 foot one-story addition that would be located on an existing deck.
2. The petitioner testified that his property is a shallow lot with a small rear yard. The petitioner testified that the shallowness of the rear yard prevents any expansion of the residence.
3. In response to questions from the Board, the petitioner stated that a prior owner received a variance for the pool located on the property and that his lot shared similar characteristics with other lots in the neighborhood.

FINDINGS OF THE BOARD

Based upon the petitioner's binding testimony and the evidence of record, the Board finds that the variance must be denied. The requested variance does not comply with the applicable standards and requirements set forth in Section 59-G-3.1(a) as follows:

(a) By reason of exceptional narrowness, shallowness, shape, topographical conditions, or other extraordinary situations or conditions peculiar to a

specific parcel of property, the strict application of these regulations would result in peculiar or unusual practical difficulties to, or exceptional or undue hardship upon, the owner of such property.

The Board finds that the petitioner's lot has no exceptional topographical or other conditions not shared with other lots in the neighborhood. The Board further finds that the petitioner's lot is similar in shape and size to other lots in the neighborhood as shown on Exhibit No. 8.

The petition does not meet the requirements of Section 59-G-1.3(a) and the Board did not consider the other requirements in that section for the grant of a variance. Accordingly, the requested variance of eight (8) feet from the required twenty-five (25) foot rear lot line setback for the construction of a one-story addition is denied.

The Board adopted the following Resolution:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland, that the Opinion stated above is adopted as the Resolution required by law as its decision on the above entitled petition.

On a motion by Allison Ishihara Fultz, seconded by Louise L. Mayer, with Donna L. Barron, Angelo M. Caputo and Donald H. Spence, Jr., Chairman, in agreement, the Board adopted the following Resolution.

Donald H. Spence, Jr.
Chairman, Montgomery County Board of Appeals

I do hereby certify that the foregoing Opinion was officially entered in the Opinion Book of the County Board of Appeals this 12th day of July, 2002.

Katherine Freeman
Executive Secretary to the Board

NOTE:

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date of the Opinion is mailed and entered in the Opinion Book (see Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the

proceeding before it, to the Circuit Court for Montgomery County in accordance with the Maryland Rules of Procedure.